REMARKS-General

The newly drafted independent claims 64 and 73 incorporate all structural limitations of the original claim 1 and 19 and include further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 64-81 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

Regarding to Rejection of Claims 34-37, 40-43, 45, 49-52, 55-58, and 60 under 35USC102

The Examiner rejects claims 34-37, 40-43, 45, 49-52, 55-58, and 60 as being anticipated by Drozt. Pursuant to 35 U.S.C. 102, "a person shall be entitled to a patent unless:

(b) the ***invention*** was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

In view of 35 U.S.C. 102(b), it is apparent that a person shall **not** be entitled to a patent when his or her **invention was patent** in this country more than one year prior to the date of the application for patent in the United States.

However, the Drozt patent and the instant invention are **not the same invention** according to the fact that the independent claims 64 and 73 of the instant invention does not read upon the Drozt patent. Accordingly, Drozt fails to anticipate the distinctive features of the instant invention as follows:

(a) In claims 64 and 73, "a **fabric shelter** is adapted to block heat radiation of sunlight and is made of material adapted to be **seen through** from one side of the fabric shelter to another side thereof" is claimed to shelter a window of a window frame of a vehicle, wherein Drozt merely teaches a window screen 20 which permits the flow air into and out of the passenger compartment without any mention of a fabric shelter having heat blocking ability and see through ability. The Examiner alleges that the

window screen of Drozt is capable of performing the function of blocking heat and of being seen through from one side to another side. The only mention in Drozt is **a window screen that allows air flow in and out and prevents the entry of insects** without any further disclosure in the specification and the drawings. It is apparent that Drozt fails to teach and anticipate the same recitation and limitation in the amended claims 64 and 73 of the instant invention of using the fabric shelter adapted to block the heat and adapted to be seen through from one side of the fabric shelter to another side thereof.

(b) In claims 64 and 73, "**first to fourth attachment angles** of the loop boundary" is claimed at first and third attachment angles are larger than first and third interior angles of the window frame respectively while second and fourth attachment angles are smaller than second and fourth interior angles of the window frame respectively, wherein Drozt merely teaches, in column 3, lines 25-31, "the outside measurement of the screen 20 are such as to exceed the inner measurements of the window frame 20" and "the height and width of screen 20 exceed the inner height and width of frame 14". In other words, Drozt merely teaches the size of the screen is **bigger** than the size of the frame without any mention of the structural relationship between the attachment angle of the screen and the interior angle of the frame. In fact, the structure of the screen in Drozt is totally different from the structure of the retention frame of the instant invention to lead different mounting operation of the screen to the frame.

(c) In claims 64 and 73, "the **shape** of the retention frame is deformed via the first to fourth resilient cornering holders" is claimed to mount the shelter to the window frame, wherein Drozt merely teaches the size of the screen is deformed via the resilient frame without any mention of the shape of the resilient frame being deformed. The applicant respectfully submits that the shape of the retention frame of the instant invention is deformed by matching the first to fourth attachment angles with the first to fourth interior angles of the window frame respectively. However, the size of the resilient frame of Drozt is deformed in two directions, as disclosed in column 3, lines 32-33, which are the height and width of the resilient frame. Therefore, the size of the screen before it is mounted to the window frame must be bigger than the size of the screen after it is mounted to the window frame. Accordingly, the size of the retention

frame of the instant invention is remained the same before or after the shelter is mounted to the window frame. In other words, the deformation of the retention frame of the instant invention is not equivalent to the deformation of the resilient frame in Drozt.

(d) Drozt fails to anticipate and teach "the four retention arms are biasing against the first to fourth edge of the window frame **by an urging force** from the resilient cornering holders and **by deformation** of the shape of the retention frame" as claimed in claims 64 and 73. As it is mentioned above, the resilient frame in Drozt is deformed by the size (height and width) thereof such that the screen is mounted to the window frame by a mere resilient force of the resilient frame. In other words, the size expansion of the resilient frame generates the resilient force. The applicant respectfully submits the retention frame of the instant invention provides an urging force and restoring force to support the shelter at the window frame, which enhances the attachment of the shelter within the window frame. When the shape of the retention frame is deformed by its resilient cornering holders, the attachment angles of the resilient cornering holders not only match with the interior angles of the window frame but also apply the urging force at the retention arm to the edges of the window frame. Simultaneously, the restoring force of the retention frame is generated by the deformation thereof to retain the retention frame within the window frame. Therefore, the instant invention provides a better secure attachment between the sunshade and the window frame. In other words, Drozt merely teaches the window screen is mounted within the guide channel located centrally within the window frame 14. Obviously, a mere resilient force is not enough to hold the screen in position such that the guide channel is a must to securely mount the screen at the window frame.

(e) Drozt fails to anticipate and teach the fabric shelter is supported within the window frame while the side window thereof is allowed to be normally operated as claimed in claims 64 and 73. Drozt merely teaches, in column 3, lines 41-44, the window glass is movable vertically within the guide channel. In other words, in order to mount the screen to the guide channel, the window glass must be moved all the way down to access the guide channel. Therefore, after the screen is mounted to the window frame along the guide channel, the window glass **cannot** be operated anymore. However, the sunshade of the instant invention mounts to the window frame adjacent to the window glass thereof such that the window glass can be normally operated.

(f) Drozt fails to anticipate and teach the shelter is **tensionally** supported when the shelter is supported within the window frame as claimed in claims 64 and 73. Since the resilient frame of Drozt is deformed by its **size** as mentioned above, the screen cannot be tensionally supported after the screen is mounted within the window frame.

(g) Drozt fails to anticipate and teach the retention arms are made of **non-resilient material** as claimed in claims 65 and 74, wherein Drozt merely teaches, in column 3, lines 52-53, the resilient frame is formed as an endless loop. In other words, the resilient frame of Drozt is made of resilient material.

(h) Drozt fails to teach the retention arms are made of resilient material that the retention frame is adapted to be deformed by its shape as claimed in claims 66 and 75, wherein Drozt merely teaches the resilient frame is made of resilient material that the resilient frame is adapted to be deformed by its size.

(i) Drozt fails to teach the shelter is made of **heat blocking material** that **allows a certain amount of sunlight** entering into the vehicle as claimed in claims 67-69 and 76-78. Drozt merely teaches the screen is a mesh screen for permitting air flowing in and out of the vehicle. It is worth to mention that the mesh screen cannot block the heat from entering into the vehicle.

Accordingly, Drozt fails to anticipate the distinctive features (a) to (i) of the instant invention. Drozt is not a qualified prior art of the instant invention and should be removed from the prior art list of the instant invention.

Response to Rejection of Claims 38, 39, 44, 53, 54, and 59 under 35USC103

The Examiner rejected claims 38, 39, 44, 53, 54, and 59 over Drozt in view of Mitchell et al. Pursuant to 35 U.S.C. 103:

"(a) A patent may not be obtained thought the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made."

In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Drozt which is qualified as prior art of the instant invention under 35USC102(b) are obvious in view of Mitchell at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

However, as recited above, Drozt merely discloses a screen comprising a resilient frame having a size larger than a size of the window frame of the vehicle such that when the resilient frame is deformed by its size, the screen can be mounted to the window frame. However, Drozt fails to teach the shape of the retention frame of the instant invention is deformed by matching the attachment angles with the interior angles so as to apply not only the urging force but also the restoring force to securely hold the sunshade within the window frame while the window glass is adapted to be normally operated.

Therefore, the difference between Drozt and the instant invention as claimed in claims 64 to 81 is not limited to the disclosure of "screen", but includes the above distinctive features (a) to (i). In addition, regarding to claims 64 to 81, the instant invention further contains the following distinctive feature:

(j) Drozt does not teach any "**positioning split** formed at a mid-portion of a longitudinal edge of the fabric shelter, wherein the retention frame is extended along the positioning split of the fabric shelter while a portion of the retention frame having a resilient ability is provided at the positioning split to selectively adjust a width of the positioning split" as claimed in claims 70 to 72 in addition to what is claimed in claim 64 and in claims 79 to 81 in addition to what is claimed in claim 73.

Whether the claims 64 to 81 as amended of the instant invention are obvious depends on whether the above differences (a) to (j) between the instant invention and Drozt are obvious in view of Mitchell at the time of the invention was made.

Furthermore, the applicant respectfully submits that when applying 35 USC 103, the following tenets of patent law must be adhered to:

(a) The claimed invention must be considered as a whole;

(b) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;

(c) The references must be viewed without the benefit of hindsight vision afforded by the claimed invention; and

(d) Reasonable expectation of success is the standard with which obviousness is determined.

Also, "The mere fact that a reference could be modified to produce the patented invention would not make the modification obvious unless it is suggested by the prior art." *Libbey-Owens-Ford v. BOC Group*, 4 USPQ 2d 1097, 1103 (DCNJ 1987).

Mitchell merely teaches a taper area 135 on the perimeter 112 of the flexible fabric sheet 200 without any mention of any retention frame adapted to be deformed by its shape that the attachment angles are correspondingly matching with the interior angles of the window frame respectively.

"To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited art references for combination in the manner claimed... [T]he suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness..." *In re Gorman*, 933 F.2d 982, 986, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991).

Accordingly, the applicant believes that neither Drozt nor Mitchell, separately or in combination, suggest or make any mention whatsoever of the difference subject features (a) to (j) as claimed in the claims 64 to 81 of the instant invention.

Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

The Cited but Non-Applied References

The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 64 to 81 at an early date is solicited.

Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Raymond Y. Chan
Reg. Nr.: 37,484
108 N. Ynez Ave.
Suite 128
Monterey Park, CA 91754
Tel.: 1-626-571-9812
Fax.: 1-626-571-9813

CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 05/05/2006 Signature:
Person Signing: Steven Cheung